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Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Protection of and assistance to internally displaced persons

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the Special Rapporteur on the human rights of internally displaced persons, Chaloka Beyani, in accordance with General Assembly resolution 66/165 and Human Rights Council resolution 23/8.

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Report of the Special Rapporteur on the human rights of internally displaced persons

Summary

The present report outlines the major activities undertaken by the mandate holder during the period from August 2012 to July 2013. In addition, it contains a thematic section on the issue of addressing the role of humanitarian and development actors in achieving durable solutions for internally displaced persons through peacebuilding in the aftermath of conflict.

Contents

		Page
I.	Introduction	3
II.	Mandate and activities of the Special Rapporteur	3
	A. Mandate	3
	B. Country engagement	3
	C. Cooperation with regional and international organizations	6
	D. Mainstreaming the human rights of internally displaced persons in the United Nations system	7
III.	Durable solutions for internally displaced persons: advancing the agenda: addressing the role of humanitarian and development actors in achieving durable solutions for internally displaced persons through peacebuilding in the aftermath of conflict	8
	A. Introduction	8
	B. Role of the mandate of the Special Rapporteur in peacebuilding, development and durable solutions	9
	C. Addressing the gap between humanitarian and development actors	10
	D. Challenges and opportunities with regard to the nexus between peacebuilding, development and durable solutions	12
IV.	Conclusions and recommendations	20

I. Introduction

1. The present report provides an overview of the main activities undertaken by the Special Rapporteur on the human rights of internally displaced persons during the period from August 2012 to July 2013. It also contains a thematic section on the issue of addressing the role of humanitarian and development actors in achieving durable solutions for internally displaced persons though peacebuilding in the aftermath of conflict.

II. Mandate and activities of the Special Rapporteur

A. Mandate

2. The Human Rights Council, in its resolution 23/8, mandated the Special Rapporteur with the task of addressing the complex problem of internal displacement, in particular by mainstreaming the human rights of internally displaced persons into all relevant parts of the United Nations system, working towards strengthening the international response to the complex problem of internal displacement, engaging in coordinated international advocacy and action for improving protection and respect of the human rights of internally displaced persons, and continuing and enhancing dialogue with Governments, intergovernmental, regional and non-governmental organizations and other relevant actors.

3. In accordance with his mandate, the Special Rapporteur has endeavoured to promote a rights-based approach to internal displacement through dialogue with Governments and mainstreaming and advocacy activities within the United Nations and regional organizations. He wishes to express his appreciation to those Governments that have issued invitations or otherwise engaged with him and to the various United Nations and other international organizations that have supported his activities.

B. Country engagement

Sudan

4. From 14 to 22 November 2012, the Special Rapporteur undertook a country visit to the Sudan at the Government's invitation. He met displacement-affected communities in Northern, Western and Southern Darfur and in Khartoum, but was unfortunately unable, for security reasons, to visit Southern Kordofan and Blue Nile States. He commends the Government and the international community for their efforts to tackle both the sources and consequences of internal displacement. He found that, while significant challenges persisted in the Sudan, progress had been made and there were important opportunities that must be seized by all relevant actors so as to bring about sustainable peace and durable solutions.

5. In Darfur in particular, the signing of the Doha Document for Peace in Darfur in 2011 represents one such window of opportunity. The Special Rapporteur believes that, if implemented effectively and inclusively by all stakeholders, this agreement, which includes provisions on durable solutions for internally displaced persons, security, power-sharing, wealth-sharing and reconciliation, can contribute

to peace and stability in the region. He calls for all efforts to be made towards this end and for the momentum surrounding its implementation to be increased. He notes that other factors are essential to effectively addressing the protracted internal displacement situation in Darfur, including open, predictable and sustained humanitarian access to affected populations, which will enable an assessment of their humanitarian needs and longer-term intentions; a comprehensive approach to durable solutions that facilitates local integration, resettlement and voluntary returns; and concerted efforts to integrate internally displaced persons (who in many cases have been urbanized) into urban planning, development and livelihood projects. Other areas emphasized by internally displaced persons are the need for improved security, access to services and livelihood opportunities and access to their land in areas of return. Concerted efforts are needed to meet the protection and assistance needs of internally displaced persons in Darfur, most of whom have now lived in dire circumstances for many years.

6. Regarding persons of South Sudanese origin, the Special Rapporteur is encouraged by the signing of the Four Freedoms agreement, which will facilitate the process of regularizing the stay of persons wishing to remain in the Sudan. He urges all parties to take practical measures to implement the agreement as soon as possible and exercise flexibility regarding administrative requirements that may be difficult for persons to meet. He also calls upon the Governments of the Sudan and South Sudan to facilitate the establishment of humanitarian corridors to enable safe and voluntary returns. Until a durable solution has been attained, however, it is essential that the human rights of persons of South Sudanese origin be protected. In this regard, he urges the Government of the Sudan to promote a culture of respect for their rights within the Sudan and fully investigate and prosecute any violations thereof. The extremely difficult conditions in some departure points, including with regard to water and sanitation, shelter, health care and other basic services, also require particular attention and monitoring.

7. With regard to Southern Kordofan and Blue Nile States, the Special Rapporteur notes the efforts by the Government of the Sudan to ensure the provision of humanitarian assistance in areas that it controls. He urges all parties to provide safe access to humanitarian assistance in all areas in implementation of the memorandums of understanding signed in August 2012 and to redouble efforts, with the support of the international community, to peacefully resolve all outstanding issues that are fuelling the crisis. He observes that the Sudan continues to experience various causes and contexts of internal displacement, including new and protracted displacement; displacement as a result of armed conflict and communal violence; and displacement stemming from conflicts over resources because of climate change and natural disasters. He therefore urges the Government to embrace a comprehensive framework for the protection of the human rights of internally displaced persons by ratifying the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention) and to adopt implementing legislation at the earliest opportunity.

Georgia

8. The Special Rapporteur conducted a follow-up mission to Georgia from 10 to 14 June 2013 at the Government's invitation. He visited collective centres and settlements for internally displaced persons in western Georgia, including Shida Kartli and Poti, and held meetings with internally displaced persons. He commended

the continuing commitment by the Government to improving the living conditions of persons displaced in the 1990s and for providing durable housing to those displaced by the conflict in 2008. He stressed, however, that there was an urgent need to continue to improve the living conditions and livelihoods of internally displaced persons in some of the collective centres that he visited.

9. The Special Rapporteur recommended an integrated approach to addressing the situation of all internally displaced persons, including those in the private sector, in durable housing, including those displaced in the early 1990s and in 2008 and eco-migrants displaced by natural or human-induced disasters. He recommended that the Government should ensure the full and effective enjoyment of the human rights of internally displaced women, in particular to land and property, in accordance with international standards.

10. In his assessment, the Special Rapporteur found that new opportunities existed for taking an inclusive integrated approach for all waves of internally displaced persons in Georgia in accordance with the international standards contained in the Guiding Principles on Internal Displacement, adopted in 1998. The opportunities included the proposed revised legislation on internally displaced persons; realignment of the 2007 strategy on internally displaced persons with the proposed law; the launch of a new registration exercise for all internally displaced persons that should also profile their vulnerability and needs; and inclusive policies being formulated by the Government in the fields of health, land, agriculture, education and employment-generating activities. He called for the new policies to be targeted at internally displaced persons with a view to improving their livelihoods and combating vulnerability, including that of internally displaced persons with disabilities. Furthermore, he recommended that the Government should consult internally displaced persons and enable their participation in decisions affecting them in order to establish conditions and means for achieving durable solutions for internally displaced persons in safety and dignity, based on their informed and voluntary choice of such solutions.

11. The Special Rapporteur expressed concern at the placement of a coiled razor wire fence along the administrative boundary line of the Tskhinvali region/South Ossetia, which had the effect of depriving internally displaced persons of their freedom of movement and livelihoods, and called for the facilitation of the freedom of movement of internally displaced persons across that line. In that connection, he welcomed the decision of the Constitutional Court that internally displaced persons from adjacent villages were entitled to the same rights as those internally displaced persons from Abkhazia and the Tskhinvali region/South Ossetia.

Syrian Arab Republic

12. On 15 May 2013, in its resolution 67/262 on the situation in the Syrian Arab Republic, the General Assembly requested the Special Rapporteur to submit to it a report on the very dire situation of internally displaced persons in that country in terms of safety and their basic rights and livelihoods, and to provide recommendations with a view to meeting assistance and protection needs and strengthening the effectiveness of the international response to displacement.

13. In his report to the General Assembly submitted in response to that request (A/67/931), the Special Rapporteur provided an overview of the humanitarian, protection and human rights situation of internally displaced persons in the Syrian

Arab Republic, analysed key challenges to meeting the urgent needs of affected communities and considered ways to guide the development of strategies for future durable solutions, in addition to making a set of preliminary recommendations.

Requests for country visits

14. The Special Rapporteur requested to visit Bangladesh, Colombia, Haiti, Myanmar, the Philippines, Serbia, South Sudan and the Syrian Arab Republic.

C. Cooperation with regional and international organizations

15. The Special Rapporteur is pleased to report on his continuing collaboration with regional and international organizations. He engaged with African regional organizations and mechanisms for the promotion, ratification and implementation at the national level of the Kampala Convention.

16. The Special Rapporteur also engaged with the Organization for Security and Cooperation in Europe (OSCE). He addressed the Human Dimension Committee of OSCE in Vienna on 4 September 2012 to raise awareness of his work and the critical connections between durable solutions and national and regional security in the OSCE area. He was pleased to contribute to the development by the Office of the United Nations High Commissioner for Refugees (UNHCR) and OSCE of a joint protection checklist on internal displacement, which was designed for OSCE field officers. He also participated in a workshop in Vienna on natural disasters and displacement (5 September 2012). Moreover, he provided a briefing to the Humanitarian Liaison Working Group in New York on the priorities of his mandate and country visits (24 October 2012).

17. The Special Rapporteur has maintained a strong partnership with civil society organizations in Geneva, New York and the field. In particular, he wishes to express his appreciation for the support provided through the Brookings-London School of Economics Project on Internal Displacement and for the cooperation with the Internal Displacement Monitoring Centre on various issues of mutual interest. He also entered into a collaboration agreement to formalize and strengthen the existing cooperation with the Joint IDP Profiling Service. In New York, he met some civil society organizations based in that city to discuss strategies on internal displacement (25 October 2012). In the field, civil society organizations have played a vital supporting role by sharing information, articulating the human rights impact of internal displacement in various contexts and acting as a liaison with displaced communities, especially during country visits. For example, during his visit to Georgia, the Special Rapporteur addressed a seminar organized by the Norwegian Refugee Council and participated in a separate seminar organized by Georgian civil society organizations. He gave lectures on internal displacement during the annual international humanitarian law course held by the International Institute of Humanitarian Law (4 July 2013) and at the Refugee Studies Centre Summer School at the University of Oxford (19 July 2013).

D. Mainstreaming the human rights of internally displaced persons in the United Nations system

18. During the reporting period, the Special Rapporteur continued to mainstream the human rights of internally displaced persons in the United Nations system and the wider humanitarian community by actively participating in the Inter-Agency Standing Committee (IASC). He also continued his engagement and cooperation with the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the Committee on the Elimination of Discrimination against Women. He reinforced cooperation with UNHCR and the Office for the Coordination of Humanitarian Affairs. The Special Rapporteur engaged in a constructive dialogue with those agencies on, among others, current challenges and responses to internal displacement and potential areas of cooperation at the headquarters and field levels. He also held periodic briefings on thematic or country activities.

19. The Special Rapporteur also participated in several activities organized by United Nations agencies, including the meetings and annual retreat of the Global Protection Cluster; activities to promote the Kampala Convention; a high-level panel discussion in Geneva on the theme "Promoting and protecting women's rights in situations of conflict and post-conflict: the case of French-speaking Africa", co-organized by OHCHR and the International Organization of la Francophonie (18 October 2012); and a seminar in Geneva on humanitarian access, protection and assistance under constraints, organized by UNHCR (7 November 2012). He attended a Global Protection Cluster thematic seminar on the theme "Transitioning from crisis to recovery: the role of protection clusters" (6 June 2013). He convened a consultation on the theme "Durable solutions for internally displaced persons: advancing the agenda" in cooperation with OHCHR, UNHCR, the United Nations Development Programme (UNDP) and the Brookings-London School of Economics Project on Internal Displacement (7 June 2013). The Special Rapporteur wishes to express his appreciation for the continued partnership with those bodies.

20. The Special Rapporteur organized various events in collaboration with relevant partners and sponsors, including a side event during the sixty-seventh session of the General Assembly on the theme "The evolution of the mandate and the internal displacement context: achievements and challenges two decades later" (24 October 2012), which was also the theme of the report that he submitted to the General Assembly in 2012 (A/67/289), and a consultation in Geneva entitled "Taking stock of internal displacement: 20 years on" (28 and 29 November 2012).

21. The Special Rapporteur convened a workshop on 18 September 2012 in Geneva to hold consultations with experts from numerous human rights, humanitarian and development bodies and civil society organizations with specific expertise in the field of displacement and protection of the human rights of women.

III. Durable solutions for internally displaced persons: advancing the agenda: addressing the role of humanitarian and development actors in achieving durable solutions for internally displaced persons through peacebuilding in the aftermath of conflict

A. Introduction

22. The present report builds on the long history of efforts by the current mandate holder and his predecessors to support efforts to resolve displacement and reflects the Special Rapporteur's decision to make achieving durable solutions for internally displaced persons a priority of the second term of his mandate. In this context, he welcomes the increasingly widespread recognition of the need for a paradigm shift that recognizes displacement not only as a humanitarian concern, but also as a development and peacebuilding challenge in the period after armed conflict. He is also pleased to note a number of important new opportunities to address this issue, including decision No. 2011/20 of the Policy Committee, in which the Secretary-General endorsed the preliminary framework on ending displacement in the aftermath of conflict (hereinafter "Secretary-General's Framework"), which establishes priorities and responsibilities to support the delivery of durable solutions for internally displaced persons and refugees returning to their country of origin; the Transitional Solutions Initiative by UNDP, UNHCR and the World Bank, which is aimed at ending the dependency of displaced persons on humanitarian assistance, creating sustainable livelihoods for them and improving conditions for the host communities; the negotiation of the post-2015 development agenda; the evolution of debates on early recovery, resilience and State fragility; and the piloting of new donor arrangements such as the New Deal for Engagement in Fragile States.[1]

23. While recognizing the value of these strides — and aiming to strengthen them through the present report — the Special Rapporteur stresses the primary responsibility of States to facilitate durable solutions to displacement. Such solutions include, in accordance with the Guiding Principles on Internal Displacement, sustainable reintegration at the place of origin (return), sustainable local integration in areas where internally displaced persons take refuge (local integration) and sustainable integration in another part of the country (settlement elsewhere in the country). The IASC Framework on Durable Solutions for Internally Displaced Persons indicates that a "durable solution is achieved when internally displaced persons no longer have any specific assistance and protection needs that are linked to their displacement and can enjoy their human rights without discrimination on account of their displacement" (see A/HRC/13/21/Add.4).

24. Supporting durable solutions for internally displaced persons, in particular through the engagement of development and peacebuilding actors, has been a long-standing challenge that has recently attracted increased attention.[2] Initiatives to promote a more holistic and effective approach to durable solutions will require the

[1] Information on the New Deal is available at www.pbsbdialogue.org/documentupload/49151944.pdf and www.newdeal4peace.org/.

[2] See the report of the Secretary-General on peacebuilding in the immediate aftermath of conflict (A/63/881-S/2009/304) and the background note prepared by UNHCR and UNDP for the round table on transitions and solutions, held in Amsterdam on 18 and 19 April 2013.

engagement of a broad range of actors, including Governments, United Nations agencies, development banks, the International Monetary Fund, private-sector actors and local and international non-governmental organizations.[3] In keeping with his mandate to promote human-rights-based approaches to durable solutions for internally displaced persons, the Special Rapporteur seeks herein to lay the ground for more effectively engaging development and peacebuilding actors, together with humanitarian and human rights actors, in collaborative efforts to devise durable solutions to displacement. The present report is informed by the IASC Framework and intended to support the implementation of the Secretary-General's Framework.

25. Many elements of this complex issue cannot be tackled herein. In particular, while the Special Rapporteur focuses on development actors and durable solutions in the context of peacebuilding, he also acknowledges the need to actively support durable solutions for internally displaced persons uprooted by natural disasters (see A/HRC/16/43/Add.5) and the need to focus future work on the role of donor and recipient States in tackling internal displacement through development and to strengthen the capacity of States to support durable solutions.

B. Role of the mandate of the Special Rapporteur in peacebuilding, development and durable solutions

26. There has been a long-standing commitment on the part of the mandate holders to supporting durable solutions through missions and working visits, the development of frameworks and engagement with key stakeholders, including the World Bank and the Peacebuilding Commission. For example, in the course of missions and working visits to a range of countries, including Bosnia and Herzegovina, the Central African Republic, Côte d'Ivoire, Georgia, Iraq, Nepal, Serbia, Somalia and the Sudan, the mandate holders have analysed the close relationship between durable solutions, development and peacebuilding processes. They have made recommendations to address outstanding concerns with regard to those dimensions (see, for example, A/HRC/23/44/Add.1 and A/HRC/4/38/Add.2), while stressing the need to integrate issues pertaining to internally displaced persons and durable solutions into national development plans, peacebuilding strategies and peace agreements (see, for example, A/HRC/16/43/Add.1 and A/HRC/16/43/Add.2 and Corr.1). Legal standards are also being set in this regard. For example, States parties to the Kampala Convention now have a duty to endeavour to incorporate the relevant principles contained in the Convention into peace negotiations and agreements for the purpose of finding solutions to the problem of internal displacement, as stated in article 3 (2) (e). The Pact on Security, Stability and Development in the Great Lakes Region, signed in 2006, provides an appropriate legal framework and addresses displacement and durable solutions under the Protocol on the Protection of and Assistance to Internally Displaced Persons and the Protocol on the Property Rights of Returning Persons, both adopted in 2006, in the overall context of humanitarian assistance, development, security and peacebuilding.[4] The Special Rapporteur continues to cooperate with the African

[3] The Special Rapporteur would like to express his appreciation to all the participants in the consultations and round-table discussions in Geneva, New York and Washington, D.C., whose contributions informed the present report.

[4] See Chaloka Beyani, "Introductory note on the Pact on Security, Stability and Development in the Great Lakes Region", *International Legal Materials*, vol. 26 (2007), p. 173.

Union and the International Conference on the Great Lakes Region with regard to the implementation of the Kampala Convention and the Pact.

27. Holders of the mandate have addressed and cooperated with the Peacebuilding Commission, encouraging its secretariat to include the rights of displaced persons in its deliberations (see A/62/227, para. 58) and providing expertise on issues relating to internally displaced persons with regard to Burundi and the Central African Republic (see A/65/282 and Corr.1, para. 54). Recognizing that addressing internal displacement in peace agreements is an important step towards achieving durable solutions and ensuring the sustainability of peacebuilding efforts, a previous mandate holder, in cooperation with the Department of Political Affairs of the Secretariat, developed a guide for mediators on integrating internal displacement into peace processes and peace agreements (see ibid., paras. 38 and 39).[5]

28. The holders of the mandate provided their most comprehensive guidance on durable solutions to date by spearheading the collaborative development of the IASC Framework. It identifies the human-rights-based principles that should inform the pursuit of durable solutions and sets out criteria to identify the extent to which a durable solution has been attained, as well as providing examples of indicators that can be adapted to local contexts to monitor progress towards such solutions. It recognizes that achieving durable solutions is a complex process that encompasses human rights, humanitarian, development, reconstruction and peacebuilding challenges and must involve the coordinated and timely engagement of various actors, with international humanitarian and development actors playing a complementary role to that of national authorities. UNDP, UNHCR and the World Bank indicate that, thanks to the development of the IASC Framework, "there is a greater recognition now than ever that displacement is not just a humanitarian issue and that displaced persons have developmental needs which cannot be realized with short-term humanitarian assistance only".[6]

C. Addressing the gap between humanitarian and development actors

29. Since at least the 1960s, the case for bridging the gap between relief and development assistance to displaced populations has been made, but efforts to tackle the problem have waxed and waned.[7] It is the collective experience of the mandate holders over the years that internally displaced persons are worse after the emergency phase of humanitarian assistance in terms of livelihoods, social services, shelter, adequate food and access to health and education, for example. This is due to the fact that humanitarian actors often disengage from providing assistance after the emergency phase of a humanitarian crisis and development actors do not become involved until normal conditions for promoting early recovery, reconstruction and durable solutions are established.

30. Most efforts to bridge this gap have focused on refugees rather than on internally displaced persons, partly because the regime for the protection of

[5] See also Gerard McHugh, *Integrating Internal Displacement in Peace Processes and Agreements* (Washington, D.C., United States Institute of Peace, 2010).

[6] See the concept note for the Transitional Solutions Initiative prepared by UNDP and UNHCR in collaboration with the World Bank, p. 3. Available from www.unhcr.org/4e27e2f06.pdf.

[7] See Jeffrey Crisp, "Mind the gap! UNHCR, humanitarian assistance and the development process", *International Migration Review*, vol. 35, No. 1 (March 2001), pp. 168-191.

internally displaced persons did not exist when the efforts began. Unlike in the case of refugees, providing protection and assistance to internally displaced persons involves an inter-agency approach in which the dichotomy between humanitarian and development actors has hitherto been reinforced. This state of affairs has changed in recent years, with the mainstreaming of the human rights of internally displaced persons in protection and assistance cycles becoming increasingly common.[8] While some efforts have focused on displaced persons who remain in protracted displacement situations, many appear to be aimed at supporting durable solutions. Many initiatives linking relief to development strive to promote peaceful coexistence and increase stability in displacement-affected areas. In some cases, however, the problem remains that these initiatives have not been explicitly integrated into national peacebuilding strategies.

31. In the 1980s, international efforts to bridge the gap between relief and development assistance included the UNHCR refugee aid and development approach, applied through the International Conference on Assistance to Refugees in Africa, in 1981, and the Second International Conference on Assistance to Refugees in Africa, in 1984. It was followed by the International Conference on Central American Refugees process, launched in 1989 with the aim of supporting durable solutions for Central American refugees and internally displaced persons. According to UNDP, UNHCR and the World Bank, the conferences "demonstrated and to large extent created awareness and recognition that displacement has development challenges which can only be addressed by linking relief and development".[6] The Development Programme for Displaced Persons, Refugees and Returnees in Central America complemented the Central American process and was seen as a "successful programme with UNDP playing a prominent role in engaging development actors".[6] Although the longer-term success of the International Conference on Central American Refugees and the Development Programme for Displaced Persons, Refugees and Returnees in Central America processes has been questioned, the latter model was subsequently adjusted and replicated in numerous countries.

32. Various ad hoc initiatives to link emergency and development assistance followed the two international conferences, including IASC Working Group deliberations that led to the establishment of a reference group on post-conflict reintegration, convened by UNDP. In 1999, UNHCR and the World Bank co-sponsored two round tables on the gap between humanitarian assistance and long-term development in post-conflict, forced displacement contexts (known as the Brookings Process). Under the leadership of the United Nations High Commissioner for Refugees and the President of the World Bank, the round tables identified opportunities to improve institutional and financial arrangements to overcome the gap and field-level partnership initiatives to tackle the problem.

33. While the Brookings Process prompted a task force on peace, conflict and security under the auspices of the Development Cooperation Directorate of the Organization for Economic Cooperation and Development to examine best practices pertaining to the gap between relief and development assistance and spurred greater cooperation between the World Bank and UNHCR, it was ultimately unable to secure major changes in the operational cultures of donors and humanitarian and

[8] See the compilation of selected solutions initiatives jointly started by UNHCR and development actors prepared for the round table on transitions and solutions convened by UNHCR and UNDP in Amsterdam on 18 and 19 April 2013.

development actors. Nonetheless, the Brookings Process was revived in 2003 to inform UNHCR initiatives under the Framework for Durable Solutions for Refugees and Persons of Concern, including with regard to development assistance for refugees; repatriation, reintegration, rehabilitation and reconstruction; and development through local integration. UNDP, UNHCR and the World Bank have noted that "these initiatives generated mixed results but in the process all contributed immensely to the debate".[6] In 2004, in guidance on durable solutions, the United Nations Development Group recognized the predominantly ad hoc approach taken and called for an integrated approach to addressing the development challenges that displacement prevention and sustainable integration of internally displaced persons posed.

34. Although the terminology used to discuss approaches to addressing the humanitarian and development gap has evolved over the years, the issue may broadly be understood as part of the early recovery or "transition" process.[9] The process should be characterized by the joint involvement of humanitarian and development actors at the outset of displacement and informed by the applicable international framework of human rights as a means of building and sustaining the resilience of internally displaced persons beyond the emergency phase. Human rights principles, such as human dignity, non-discrimination, participation and protection, both of civil and political rights and economic, social and cultural rights, manifest an approach to development that is based on human rights and provide an important foundation for efforts to link emergency relief and development efforts in support of solutions.[10]

D. Challenges and opportunities with regard to the nexus between peacebuilding, development and durable solutions

35. Structural and operational impediments continue to hinder effective cooperation between humanitarian, development and peacebuilding actors to support durable solutions. While the IASC Framework provides a significant tool for addressing the nexus between peacebuilding, development and durable solutions, the implementation of the Secretary-General's Framework provides an important opportunity to tackle existing structural and operational impediments to solutions to displacement, alongside broader efforts by States, civil society and other actors.

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[9] The United Nations Development Group defines transition as "the period between the immediate aftermath of a crisis and the recovery and development periods", while for IASC it is the "phase of a humanitarian crisis in which acute vulnerabilities begin to decline, leading to reduction in international life-saving assistance and an increase of recovery and rehabilitation activities". See www.interaction.org/document/transition-crisis-recovery-role-protection-cluster.

[10] As confirmed in article 3 of the Declaration on the Right to Development of 1986, States have the primary responsibility for enabling durable solutions for internally displaced persons. There are also relevant references to the right to development in the African Charter on Human and Peoples' Rights, the Arab Charter on Human Rights and the Vienna Declaration and Programme of Action of 1993.

Linking the Inter-Agency Standing Committee Framework and the Secretary-General's Framework

36. As mentioned above, in decision No. 2011/20 of the Policy Committee, the Secretary-General endorsed the preliminary framework on ending displacement in the aftermath of conflict. Developed in response to his 2009 report on peacebuilding (A/63/881-S/2009/304), it establishes priorities and responsibilities so as to support the delivery of durable solutions for internally displaced persons and refugees returning to their country of origin. It identifies gaps in supporting durable solutions, including ineffective coordination, failure of recovery and development strategies to incorporate the needs of internally displaced persons, insufficient support to build national capacity and partnerships with non-United Nations actors, lack of funding for reintegration and lack of adequate programming (promoting social and economic recovery, protection, security, rule of law, governance and social cohesion).

37. Although reference is briefly made to the IASC Framework and the need to take a rights-based approach to durable solutions, the bulk of the document is appropriately devoted to an analysis of institutional gaps and identification of specific activities and partnerships that could fill them, which are laid out in a potential response matrix for priority rapid response interventions to be undertaken by a number of United Nations organizations within the first 24 months following the end of conflict. The Secretary-General directs the resident coordinator/humanitarian coordinator, with the support of UNHCR as Global Protection Cluster lead and UNDP as Early Recovery Cluster lead, to develop and implement strategies on durable solutions for internally displaced persons and returning refugees. Afghanistan, Côte d'Ivoire and Kyrgyzstan are the three pilot countries for this process. Of those countries, the Special Rapporteur continues to be engaged in Afghanistan and Côte d'Ivoire (see A/HRC/23/44 and Add.1) and stands ready to provide relevant expertise.

38. The piloting and broader implementation of the Secretary-General's Framework are key steps towards more coordinated and effective international support for durable solutions. To this end, it is important to recognize the differences and complementarities between the tools and the need for the implementation of the Secretary-General's Framework and the development of durable solutions strategies to be informed by the rights-based approach identified in the IASC Framework, with its organizing principles of voluntariness, informed choice and participation. Although the IASC Framework focuses on internally displaced persons while the Secretary-General's Framework looks at both internally displaced persons and returning refugees, the rights-based approach discussed in the IASC Framework is highly relevant to the concerns facing returning refugees, some of whom end up as internally displaced persons, as in Afghanistan.

39. A significant difference between the tools is that, while the Secretary-General's Framework focuses on the first two years following an armed conflict, the IASC Framework deals with displacement caused by a range of factors and recognizes that attaining durable solutions is a gradual process that can take many years. Rapid response interventions such as those identified in the response matrix can make valuable contributions to enabling durable solutions, in particular if they contribute to the attainment of the conditions for durable solutions set out in the IASC Framework, such as safety and security and access to livelihoods and housing. Durable solutions strategies should, however, have a longer and broader horizon and

be integrated into national, regional and local development plans. Integrated implementation of the two frameworks is particularly important in order to respond to the question of the extent to which durable solutions have been achieved, using the criteria and indicators identified in the IASC Framework.

40. An integrated analysis of these tools underscores the need for the development of durable solutions strategies to become a routine element of international responses to crises involving displacement. The development and implementation of these strategies should cut across sectors and be participatory, involving a wide range of international agencies, national and local authorities, non-governmental organizations and representatives of returnee, internally displaced and displacement-affected communities. Durable solutions strategies should deal equitably with the rights and specific needs of displacement-affected communities and be localized in order to ensure that they are appropriately inclusive and maximize the capacities and coping strategies of displaced persons. An approach based on human rights underscores that durable solutions strategies must respect the rights to freedom of movement and choice of residence. Such an approach also brings into focus concerns that must be addressed in order to achieve development goals in displacement-affected communities, such as ensuring equal and non-discriminatory access to education, health services, livelihoods, land, property rights and equality before the law. Transitional justice, peacebuilding, reconciliation, rule of law and security reform and land reform efforts are also highly relevant to durable solutions to displacement, underlining the need to include considerations of internally displaced persons and the participation of displacement-affected communities in these processes.

41. Developing and implementing strategies that deal with the humanitarian, development and peacebuilding dimensions of durable solutions requires strengthened efforts to collect, analyse and share data (including through profiling exercises) and integrate issues pertaining to displacement into development initiatives. At the same time, robust efforts are needed to monitor the long-term impact of durable solutions interventions and to share insight gleaned from efforts such as the Transitional Solutions Initiative and the piloting of the Secretary-General's Framework. To this end, increased clarity is needed regarding the process for moving from that pilot stage to refining and broader implementation. This process should consider the potential applicability of the Secretary-General's Framework to the pursuit of durable solutions after natural disasters and in countries experiencing protracted conflicts. The Special Rapporteur is dedicated to supporting that process.

Barriers and breakthroughs with regard to engaging development actors in durable solutions

42. Persistent barriers hinder cooperation between humanitarian, development and peacebuilding actors in support of durable solutions. They include different planning cycles, time frames, mandates, operational systems, terminology, vocabulary and approaches to working with Governments; use of different criteria to evaluate success and lack of common operationalizable benchmarks or indicators to measure progress towards durable solutions; lack of systematic, comprehensive and collaborative data collection and analysis, in addition to monitoring and evaluation exercises; disconnects between policies and priorities at the field and headquarters levels; inadequate engagement of the wide range of relevant ministries, international

organizations (including development banks) and non-governmental organizations with roles to play in supporting solutions; failure to maximize the relative strengths of actors; lack of national and international ownership of the issue and lack of focused or coordinated leadership in support of solutions; lack of technical capacity and sustained support for solutions at the local, national and international levels; inadequate access to long-term funding, in particular to scale up successful pilots and integrate initiatives designed to support solutions into broader development programmes; that donors have separate funding streams for humanitarian and development programmes and struggle to ensure cooperation and coordination between them; insufficient consideration of durable solutions issues in transition and mission drawdown plans; failure to engage the private sector in developing innovative solutions; and insufficient awareness and inadequate integration of displacement considerations into development, peacebuilding and human rights capacity-building efforts.

43. The following sections provide a reflection on some elements of these pressing challenges.[11]

Conceptualizing displacement as a development and peacebuilding issue

44. Although human rights principles provide a critical foundation for the work of humanitarian, development and peacebuilding actors alike, differences in terminology and conceptual frameworks have often hindered cooperation in support of durable solutions, thereby perpetuating the misperception that displacement is simply a humanitarian issue, rather than a complex phenomenon often requiring development and peacebuilding solutions. This state of affairs has had significant negative implications for attaining development goals, building resilience and resolving conflicts. There is a need to raise awareness of the connections between these issues and to demonstrate that it is in the interests of States and other development and peacebuilding actors to support durable solutions as an investment in poverty reduction and conflict prevention. Given that the approaches of each sector have their merits, moving forward the aim must be to maximize the strengths and contributions of each with a view to strengthening the capacity of displacement-affected communities.

45. Efforts to address displacement as a development concern have sometimes been stymied by debates over whether it is appropriate to target internally displaced persons and/or to undertake area-wide efforts that include internally displaced persons but do not target them specifically. Assessments conducted by UNDP in Georgia and the World Bank in Afghanistan, for example, have determined that internally displaced persons do face particular development needs relating to issues such as housing and tenure security. Meeting such needs in a targeted manner, while integrating internally displaced persons into broader development and peacebuilding plans, is conducive to achieving development goals and consistent with an approach based on human rights. Internally displaced persons also face a number of other particular challenges requiring specific and targeted measures, such as with regard

[11] See also, for example, the background note for the round table on transitions and solutions, in addition to Bryan Deschamp and Sebastian Lohse, "Still minding the gap? A review of efforts to link relief and development in situations of human displacement, 2001-2012" (Geneva, Policy Development and Evaluation Service, Office of the United Nations High Commissioner for Refugees, 2013).

to the issuance or replacement of personal documents, compensation for or restitution of property, family reunification and assistance in ensuring access to public services, among others. Ensuring that such targeted measures are in place, and that development and peacebuilding programmes, in addition to broader programmes such as those relating to poverty reduction and land reform, include internally displaced persons and support durable solutions, can make significant contributions to reducing fragility and poverty. In addition, ensuring that the needs of host or receiving communities are also factored into durable solutions strategies is important for the viability of programmes and to reduce possible community tensions. As questions of State fragility are integrated into mainstream development debates, including in the context of the negotiation of the post-2015 development agenda, it is essential that the concerns facing internally displaced persons and refugees be appropriately and equitably integrated.[12]

46. The impoverishment risk and reconstruction approach[13] can help to position displacement as a development issue with human rights protection implications. This approach underscores that internal displacement increases the risk of impoverishment in various ways and identifies the particular development processes required to reverse or respond to such risks. For example, the risk of landlessness requires responses such as property restitution or provision of land access; the risk of unemployment requires livelihood support; the risk of homelessness requires support for access to housing; and the risk of lost education opportunities requires access to schooling during and after displacement.[14] This approach underscores the need to move beyond early recovery debates and reconceptualize displacement as a process that heightens the risk of impoverishment and exposure to particular human rights violations. From this perspective, the entry point for analysis and response is identification of the relevant risks and rights, followed by systemic efforts to address them using the mandates of particular agencies or ministries. The human security approach[15] uses different language to address the same concerns and can also be helpfully used to frame the efforts of humanitarian, development and peacebuilding actors to enable durable solutions to displacement.

47. These reconceptualizations are important to integrating displacement and durable solutions into national, regional and municipal development plans and peacebuilding and transitional justice strategies. In this context, it is essential to see durable solutions as options available to internally displaced persons, moving

[12] For example, the High-level Panel on the Post-2015 Development Agenda calls attention to the problem of gender-based violence occurring in refugee camps and suggests an illustrative goal of providing universal access to safe drinking water at home and in schools, health centres and refugee camps (see A/67/890, annex). As negotiations on the post-2015 development agenda continue, it would be helpful to recognize that these types of development challenges typically affect both refugees and internally displaced persons.

[13] See, for example, Michael M. Cernea, "Impoverishment risks and reconstruction: a model for population displacement and resettlement", in Michael M. Cernea and Christopher McDowell, eds., *Risks and Reconstruction: Experiences of Resettlers and Refugees* (Washington, D.C., World Bank, 2000), pp. 11-55. This model was originally developed for application to development-induced relocations.

[14] See also Walter Kälin and Nina Schrepfer, "Internal displacement and the Kampala Convention: an opportunity for development actors" (Geneva, Internal Displacement Monitoring Centre, 2012).

[15] See, for example, United Nations Trust Fund for Human Security, "Human security in theory and practice" (New York, Human Security Unit, Office for the Coordination of Humanitarian Affairs, 2009). Available from http://hdr.undp.org/en/media/HS_Handbook_2009.pdf.

beyond viewing return as a litmus test for stability and recognizing that returnees may be affected by a range of socioeconomic and security concerns. To better understand the ways in which peacebuilding approaches may support durable solutions (including through strengthening civil society groups, analysing sectarian dynamics, managing conflict in return communities and facilitating dialogue between conflicted groups), it may be helpful for the Peacebuilding Support Office to undertake a thematic review of the issue. Such a review could promote more consistent engagement in support of solutions from within the peacebuilding community and help humanitarian and development actors to effectively integrate peacebuilding approaches into durable solutions interventions, with support from the Peacebuilding Fund and from the peace and development advisers jointly deployed by UNDP and the Department of Political Affairs of the Secretariat.

Structural challenges

48. Achieving durable solutions depends to varying degrees on progress in responding to structural challenges. This includes ensuring that urban planning, environmental protection, security sector reform, natural resource management and tenure reform efforts are effective and consider the particular concerns facing internally displaced persons.[16] Governments and other actors are sometimes eager to promote return as the preferred solution. Durable solutions strategies must, however, be cognizant of the ways in which structural challenges may affect the decisions of internally displaced persons. For example, urbanization of internally displaced persons during the displacement phase may render rural returns less viable. Durable solutions strategies must respect the rights to freedom of movement and residency of internally displaced persons and should take into account considerations such as political and geographical divides (including tensions between central and periphery regions) and environmental sustainability. Owing to the vulnerability that internally displaced persons often face (e.g. discrimination, impoverishment and marginalization in decision-making), they may be excluded from or negatively affected by development activities in regions emerging from conflict. For example, internally displaced persons may be forced out of informal urban settlements or peripheral areas to make way for the construction of schools and business ventures.[17]

49. Housing, land and property issues are among the most complex structural concerns that must be tackled in order to enable durable solutions. Dealing with the underlying structural sources of conflict, such as unequal access to land, insecurity of tenure for customary rights holders or in informal settlements and non-transparent decision-making regarding land use, can also be key to durable solutions. For example, restitution programmes intended to benefit internally displaced persons must be appropriately situated within broader efforts if they are to result in greater tenure security for displacement-affected communities. [18] Poorly conceived responses to the housing, land and property concerns of internally displaced persons can have significant implications for gender equity, relations between displaced and

[16] Given the links between these major structural challenges and the resolution of displacement, in contexts of massive displacement, supporting durable solutions should be considered to be a United Nations Development Assistance Framework pillar or integrated into the Framework in a cross-cutting manner. See also A/HRC/23/44/Add.1 in this regard.

[17] See www.brookings.edu/events/2013/05/14-ogata-displacement.

[18] See Liz Alden Wily, "Tackling land tenure in the emergency to development transition in post-conflict States: from restitution to reform", in *Uncharted Territory, Land, Conflict and Humanitarian Action*, Sara Pantuliano, ed. (London, Humanitarian Policy Group, Overseas Development Institute, 2009).

non-displaced communities, susceptibility to land-grabbing and prospects for economic development. For example, in some instances, land belonging to internally displaced persons may have been purchased by others in good faith and/or investment and development activities may have been undertaken on the land in their absence. Identifying mutually beneficial ways to accommodate the rights and interests of internally displaced persons and investors or purchasers may be a critical step towards the sustainable resolution of displacement in many contexts.[19]

Engagement, leadership and accountability

50. The achievement of durable solutions requires leadership and accountability on the part of national, local and international actors. While reiterating the primary responsibility and leading role of States in facilitating durable solutions, the Special Rapporteur believes that international actors can also strengthen these aspects. Ultimately, this will enable better coordination and cooperation with government actors at both the central and local levels. In this context, the Special Rapporteur welcomes the UNDP efforts to include the reintegration of displaced populations in its new strategic plan and encourages UNDP to develop a reintegration strategy or guidance note and engage in capacity-building activities to ensure effective action on the issue. The Special Rapporteur stands ready to support such work. Efforts may also be required to better understand the role of peacebuilding and peace support missions in enabling durable solutions.

51. In addition to the above, strengthening leadership and accountability in supporting durable solutions requires joint, high-level advocacy from within the United Nations system and identifying appropriately resourced focal points for durable solutions work in all agencies identified in the Secretary-General's Framework. The innovative contributions made by individuals with professional experience straddling the humanitarian, development and peacebuilding sectors, such as the UNHCR and UNDP joint agricultural project in Kaspi, Georgia, suggest that encouraging such cross-cutting expertise can be a valuable investment (e.g. through secondments between agencies and partnerships with civil society). As leaders in the humanitarian and development communities, resident coordinators and humanitarian coordinators can play a catalytic role in supporting solutions. Their positive contributions to durable solutions may be enhanced through focused training and clearer reporting requirements, in line with the Secretary-General's Framework, which assigns them with greater responsibility for the development of durable solutions strategies.

Role of donors

52. While donors play a critical role in financing and promoting durable solutions initiatives to resolve displacement, short-term funding cycles and stovepiped funding streams have also complicated cooperation between humanitarian, development and peacebuilding actors. In this context, what might be termed "donor champions" can lead the way in identifying flexible funding arrangements, incentivizing cooperation, applying diplomatic measures to help to overcome obstacles and ensuring that peacebuilding and development actors, including

[19] For more detailed discussion of related housing, land and property issues, see, for example, Scott Leckie and Chris Huggins, *Conflict and Housing, Land and Property Rights: A Handbook on Issues, Frameworks and Solutions* (New York, Cambridge University Press, 2011).

development banks, deal with displacement more systematically and concertedly. Improving donor practice requires engaging not only the branches of donor agencies dealing with humanitarian crises and multilateral agencies, but also those focused on bilateral agreements. The argument for incorporating internally displaced persons into development plans is often made, but rarely acted upon; donors can play a key role in breaking this trend by developing specific measures or procedures designed to actively encourage or require, depending on the context, the integration of displacement and durable solutions into these plans and bilateral cooperation agreements.

53. Alongside the negotiation of the post-2015 development agenda, the 2012-2015 piloting of the New Deal for Engagement in Fragile States affords an important opportunity to integrate durable solutions into the pursuit of development goals in fragile States, in particular because several pilot countries have major situations regarding internally displaced persons, including Afghanistan (where the Secretary-General's Framework is being simultaneously piloted), the Central African Republic, the Democratic Republic of the Congo and South Sudan. The New Deal recognizes that constructive State-society relations and the empowerment of women, young people and marginalized groups as key actors for peace are at the heart of successful peacebuilding and state-building. Internally displaced persons should be acknowledged as an essential stakeholder group in the implementation of the New Deal, in particular because the peacebuilding and state-building goals at the core of the New Deal are directly relevant to durable solutions. They include legitimate politics (fostering inclusive political settlements and conflict resolution), security (establishing and strengthening people's security), justice (addressing injustices and increasing people's access to justice), economic foundations (generating employment and improving livelihoods) and revenues and services (managing revenue and building capacity for accountable and fair service delivery).

54. The goals are to guide the identification of peacebuilding and state-building priorities at the country level. This is where the integration of durable solutions should be ensured, including through the inclusion of displacement and durable solutions concerns in the assessments and indicators developed to guide the implementation and review of the New Deal.[20]

Improved practice

55. A number of the innovations and breakthroughs achieved at multiple levels in support of durable solutions for internally displaced persons deserve mention. For example, various donors have been experimenting with the provision of multi-year funding for transitional projects in displacement-affected communities.[21] In Kyrgyzstan, a durable solutions coordinator has been deployed for the first time in the context of the piloting of the Secretary-General's Framework, thus providing a potentially replicable example of operational support for solutions. Representatives of United Nations and civil society groups are working together to provide technical

[20] See the progress report on fragility assessment and indicators available from www.newdeal4peace.org/wp-content/uploads/2012/12/progress-report-on-fa-and-indicators-en.pdf. A revised version was made available in February 2013.

[21] See, for example, Integrated Regional Information Network, "Bridging the gap between relief and development in DRC", 26 June 2013. Available from www.irinnews.org/report/98288/bridging-the-gap-between-relief-and-development-in-drc.

guidance on the development of durable solutions strategies. Important lessons have emerged from the integration of disaster risk reduction into development agendas worldwide, some of which may be applied to help to ensure that durable solutions sought for conflict-induced internally displaced persons increase their resiliency and limit their risk of future displacement.

56. At the local level, development non-governmental organizations involved in supporting internally displaced persons in emergency contexts are applying their community development expertise to provide longer-term development and peacebuilding support for durable solutions.[22] Around the world, internally displaced persons have mobilized to push for their rights, initiating development and peacebuilding projects and taking a leading role in crafting their own solutions to displacement. In Yemen, with timely support from the Peacebuilding Fund, internally displaced persons voiced their concerns and perspectives through consultations feeding into a national dialogue conference.[23] Overall, a stronger sense is developing regarding the challenges and opportunities at stake and the efforts necessary to support the resilience of individuals and communities, many of which should occur both before displacement (through improved human rights protection and development programmes) and in the early aftermath of displacement so as to avoid the exacerbation of vulnerability and poverty in the longer term.

IV. Conclusions and recommendations

57. **As many post-conflict contexts and, in particular, situations of protracted displacement demonstrate, the resolution of internal displacement situations requires concerted and consolidated efforts by humanitarian, human rights, development and peacebuilding actors. States bear the primary responsibility for finding durable solutions for internally displaced persons based on the recognition of such persons' right to choose between the options of return, local integration or settlement elsewhere in the country. States facing the complex challenge of finding durable solutions should receive support from international and national organizations and donor States in meeting the humanitarian, development, peacebuilding and human rights demands of such a long process of ending displacement. The Special Rapporteur seeks to support and facilitate such cooperative and coordinated efforts by Governments, international organizations, the international community, internally displaced persons and relevant national actors.**

58. **The Special Rapporteur's recommendations are based on the Guiding Principles on Internal Displacement, relevant aspects of the Kampala Convention, the IASC Framework and the Secretary-General's Framework, which are the relevant frameworks for tackling all types and stages of internal displacement, paying particular attention to prevention and durable solutions strategies.**

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[22] See, for example, the work of Sarvodaya, a Sri Lankan non-governmental organization, at www.sarvodaya.org.

[23] See UNHCR, "IDPs' voices and views: Yemen's national dialogue" (Sana'a, 2013). Available from www.unhcr.org/516fe10a9.pdf.

59. **The Special Rapporteur makes the following recommendations to:**

States affected by displacement

(a) **Develop national frameworks, structures and policies on internal displacement that specifically take on the challenge of finding durable solutions. Such frameworks, structures and policies should recognize the right of internally displaced persons to freely choose among the recognized solutions and identify activities to support such solutions in conformity with the IASC Framework and respective standards in regional instruments, in particular the Kampala Convention. They should address chronic barriers to solutions, including access to justice mechanisms and transitional justice; protection of and access to housing, land and property rights; and the re-establishment of livelihoods as an essential element to build the resilience of internally displaced persons. In this connection, national authorities should make adequate budgetary provisions and ensure human resource capacity in all relevant ministries and local authorities in order to implement such frameworks, structures and policies;**

(b) **Include durable solutions in national and local development plans, poverty reduction and alleviation plans, national economic reconstruction plans, transition plans, urban development plans and peacebuilding and stabilization efforts;**

(c) **Ratify and implement the Kampala Convention — for States members of the African Union; implement the Pact on Security, Stability and Development in the Great Lakes Region — for States members of the International Conference on the Great Lakes Region. All States concerned should endeavour to incorporate the relevant principles contained in the Convention and the Pact into peace negotiations and agreements for the purpose of finding solutions to the problem of internal displacement;**

(d) **Undertake early, participatory and joint planning in support of durable solutions, ensuring the engagement of local authorities. Such cross-sectoral planning may require adapting to institutional cultures and policies, including funding parameters, to enable the provision of longer-term support for durable solutions and facilitate the engagement of development and peacebuilding actors;**

Donor States

(e) **Recognize the resolution of internal displacement as an essential element of effective transitions, conflict resolution and prevention, economic reconstruction, stabilization efforts, resilience-building, disaster risk reduction efforts and peacebuilding;**

(f) **Advocate implementation of strategic donor leadership, recognizing the need to resolve displacement as an indispensable investment in development, resilience and peacebuilding. Cross-sectoral cooperation and planning should be encouraged through the provision of flexible, multi-year support for collaborative efforts in support of durable solutions;**

(g) **Promote regional equity in access to development assistance to ensure that areas in which internally displaced persons seek a solution attract**

development support, thereby avoiding a gap when humanitarian assistance draws down;

International organizations, including humanitarian, development and peacebuilding actors, as relevant

(h) Systematically integrate durable solutions into strategic plans and frameworks. The IASC Framework provides a widely recognized basis for strengthening cross-sectoral leadership on the resolution of internal displacement given that it deals with humanitarian, development, human rights and peacebuilding concerns;

(i) Encourage and commend UNHCR and UNDP for their work in the implementation of the Secretary-General's Framework, encourage the continuation of such work and promote the application of the IASC Framework in the development of durable solutions strategies in that context. Where applicable, such strategies should be embedded in national internal displacement legislation or policies addressing the obligations of States, for example under the Protocol on the Protection of and Assistance to Internally Displaced Persons and the Kampala Convention;

(j) Ensure systematic and early engagement of humanitarian and development actors, and all other relevant sectors, to develop solution strategies and identify mechanisms to promote an integrated approach to solutions from the early stages of displacement onwards;

(k) Systematically integrate durable solutions into peacebuilding and stabilization processes. In situations where internal displacement is a feature of conflict, it is critical to systematically integrate durable solutions into technical assessments carried out by the Peacebuilding Support Office and in peacebuilding strategies of the Peacebuilding Commission;

(l) Address context-specific barriers to durable solutions in national policies or legislation on internal displacement and durable solutions strategies and inform the application of such policies or legislation through the careful profiling of displacement situations. States and United Nations country teams are therefore encouraged to consider drawing on the services of specialized actors, such as the Joint IDP Profiling Service, to collect, update, analyse and disseminate quantitative and qualitative data on internal displacement and to develop tools to monitor and evaluate progress towards the achievement of durable solutions based on the IASC Framework;

(m) Support national authorities to include displacement-specific aspects in their own planning, programming and activities that directly support durable solutions or the development of conditions conducive to solutions. In this context, national and international actors, including donor States, are urged to support such initiatives through capacity-building, technical support and, in particular, by programmatic support in implementing relevant national policies or legislation;

(n) Ensure that the post-2015 development agenda benefits those people, including internally displaced persons, who live in fragile States, and serves as a foundation for increasing their resilience to crisis, including through the

achievement of solutions to displacement that are based on a human rights approach;

(o) Ensure that the implementation of the New Deal for Engagement in Fragile States supports the achievement of durable solutions for internally displaced persons, including by systematically analysing displacement and barriers to durable solutions in the context of country-led fragility assessments; appropriately integrating solutions for internal displacement as indicators for the achievement of the peacebuilding and state-building goals; and reviewing the extent to which the 2012-2015 piloting of the New Deal supports durable solutions and adjusting the process accordingly to maximize positive impacts on solutions.

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Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

Implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions

Report of the Secretary-General

Summary

The present report is submitted in compliance with paragraph 16 of General Assembly resolution 67/96. It highlights arrangements in the Secretariat related to assistance to third States affected by the application of sanctions; the operational changes that have occurred in the light of the shift in focus in the Security Council and its sanctions committees towards targeted sanctions; and recent developments concerning the activities of the Assembly and the Economic and Social Council in the area of assistance to third States affected by the application of sanctions.

* A/68/150.

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I. Introduction

1. In its resolution 67/96, the General Assembly requested the Secretary-General to submit a report to the Assembly at its sixty-eighth session on the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions. The present report has been prepared in compliance with that request.

II. Measures for further improvement of the procedures and working methods of the Security Council and its sanctions committees related to assistance to third States affected by the application of sanctions

2. As noted in previous reports of the Secretary-General (A/62/206 and Corr.1, A/63/224, A/64/225, A/65/217, A/66/213 and A/67/190), the Chair of the Security Council Informal Working Group on General Issues of Sanctions transmitted the report of the Working Group (S/2006/997, annex) to the Security Council. Several of the recommendations and best practices set out in that report related to improved sanctions design and monitoring, but the report did not contain any recommendations that explicitly referred to ways to assist third States affected by the unintended impact of sanctions. By its resolution 1732 (2006), the Council decided that the Working Group had fulfilled its mandate as contained in document S/2005/841, took note with interest of the best practices and methods set out in the report of the Working Group and requested its subsidiary bodies to take note of them also.

3. During the period under review, and in keeping with the shift of the Security Council from comprehensive economic sanctions to targeted sanctions, there were no pre-assessment reports or ongoing assessment reports concerning the likely or actual unintended impact of sanctions on third States.

4. In nearly every case in which the Security Council has decided that States shall freeze the assets owned or controlled by designated individuals and entities, the Council has also adopted exceptions by which States can signal to the relevant sanctions committee their intention to authorize access to frozen funds for a variety of basic and extraordinary expenses.[1] Such expenses can include tax payments, insurance premiums and public utility charges; reasonable professional fees and reimbursement of expenses associated with the provision of legal services; and fees or service charges, in accordance with national laws, for routine holding or maintenance of frozen funds, other financial assets and economic resources.

5. Furthermore, in paragraph 15 of its resolution 1737 (2006), and paragraph 21 of its resolution 1970 (2011), the Security Council decided that the assets freeze imposed under those resolutions would not prevent a designated person or entity from making payment due under a contract entered into prior to the listing of such a person or entity, provided that certain conditions had been met, and after notification by the relevant States to, respectively, the Committee established

[1] See Security Council resolutions 1452 (2002) (as amended by resolution 1735 (2006)), 1532 (2004), 1572 (2004), 1591 (2005), 1596 (2005), 1636 (2005), 1718 (2006), 1737 (2006), 1844 (2008), 1907 (2009) and 1970 (2011) (as updated by resolution 2009 (2011)).

pursuant to resolution 1737 (2006) and the Committee established pursuant to resolution 1970 (2011) of the intention to make or receive such payments or to authorize, where appropriate, the unfreezing of funds, other financial assets or economic resources for that purpose, 10 working days prior to such authorization.

6. To date, through his 90-day reports to the Security Council, the Chair of the Committee established pursuant to resolution 1737 (2006) has informed the Council of a total of 59 such notifications received.[2] Similarly, in periodic reports to the Council, the Chair of the Committee established pursuant to resolution 1970 (2011) informed the Council of a total of 45 notifications received.[3]

7. In addition, in paragraph 17 of resolution 1803 (2008), paragraph 27 of resolution 1973 (2011) and paragraph 13 of resolution 2087 (2013), the Council aimed to ensure that persons or entities, including in third States, are not held responsible for failure to comply with a contractual or other obligation when such failure is due to measures imposed by Council resolutions. In a periodic report to the Council, the Chair of the Committee established pursuant to resolution 1970 (2011) stated that the Committee had responded to four requests for guidance from Member States;[4] of these, one related to the scope and application of paragraph 27 of resolution 1973 (2011).

8. Lastly, in paragraph 21 of resolution 1874 (2009), the Security Council emphasized that all Member States should comply with the relevant measures relating to the Democratic People's Republic of Korea without prejudice to the activities of the diplomatic missions in the Democratic People's Republic of Korea, pursuant to the Vienna Convention on Diplomatic Relations. In the reporting period, by a note verbale dated 4 October 2012 addressed to States with diplomatic representation in Pyongyang, the Security Council Committee established pursuant to resolution 1718 (2006) reiterated that provision and requested the States concerned to provide information on whether such representation had experienced difficulties regarding international financial transactions, the importation of foreign goods or obtaining services from abroad as a result of the implementation of resolutions 1718 (2006) and 1874 (2009), and to indicate, if known, whether their diplomatic activities in the Democratic People's Republic of Korea had been, or were being, impeded owing to the actions of specific institutions or companies in third countries resulting from the implementation of the above-mentioned resolutions. The Committee received 16 replies.

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[2] See S/PV.5702, S/PV.5743, S/PV.5807, S/PV.5853, S/PV.5909, S/PV.5973, S/PV.6142, S/PV.6235, S/PV.6280, S/PV.6384, S/PV.6442, S/PV.6502, S/PV.6563, S/PV.6607, S/PV.6697, S/PV.6737, S/PV.6786 and S/PV.6888. The 90-day report of 9 September 2009, which is also relevant, was not delivered at a public meeting; the text is however available on the Committee's website: www.un.org/sc/committees/1737.

[3] See S/PV.6566, S/PV.6622, S/PV.6698, S/PV.6857, S/PV.6934 and S/PV.6981. The periodic report of 8 November 2012 was not delivered in its entirety at the public meeting; the full text is however available on the Committee's website: http://www.un.org/sc/committees/1970/reports_to_sc.shtml.

[4] See S/PV.6934.

III. Recent developments related to the role of the General Assembly and the Economic and Social Council in the area of assistance to third States affected by the application of sanctions

9. In its resolution 59/45, the General Assembly reaffirmed the important roles of the General Assembly and the Economic and Social Council in the area of assistance to third States confronted with special economic problems arising from the carrying out of preventive or enforcement measures imposed by the Security Council. Should consultations be requested by those States, the Assembly and the Council will mobilize and monitor, as appropriate, the economic assistance efforts of the international community and the United Nations system on behalf of third States affected by sanctions.

A. General Assembly

10. The Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization met from 19 to 27 February 2013. The report of the Special Committee contains a summary of the discussions on the question of the implementation of the Charter provisions related to assistance to third States affected by sanctions (see A/68/33, chap. II.A).

B. Economic and Social Council

11. At the opening meeting of its substantive session of 2013, on 1 July 2013, the Economic and Social Council approved its programme of work (E/2013/1) and decided to include in the agenda of the general segment of the session a sub-item, 13 (j), entitled "Assistance to third States affected by the application of sanctions". No advance documentation was requested. The Council considered the matter on 24 July 2013 but took no action under that sub-item.

IV. Arrangements in the Secretariat related to assistance to third States affected by the application of sanctions

12. In accordance with the relevant resolutions of the General Assembly,[5] the competent units within the Secretariat have maintained their capacity to monitor information pertaining to any special economic problems in third States arising from the application of preventive or enforcement measures imposed by the Security Council, to evaluate any appeals to the Security Council made by such affected third States under the provisions of Article 50 of the Charter of the United Nations, and to identify solutions to the special economic problems of those States.

13. As noted in previous reports,[6] the need to explore practical and effective measures of assistance to the affected third States has been reduced considerably

[5] See resolutions 50/51, 51/208, 52/162, 53/107, 54/107, 55/157, 56/87, 57/25, 58/80, 59/45, 60/23, 61/38, 62/69, 63/127, 64/115, 65/31, 66/101 and 67/96.

[6] See A/62/206 and Corr.1, A/63/224, A/64/225, A/65/217, A/66/213 and A/67/190.

because the shift from comprehensive to targeted sanctions has led to significant reductions in unintended adverse impacts on non-targeted countries. In fact, no official appeals by third States have been conveyed to the Department of Economic and Social Affairs to monitor or evaluate unintended adverse impacts on non-targeted countries since June 2003.

14. The shift to targeted sanctions has implied that changes need to be introduced to the methodological approaches used to assess the economic problems of third States caused by this type of sanctions. These changes involve detailed case-by-case assessments of targeted sanctions and the possible adverse impact on individual countries that were not targeted. These impacts would need to be evaluated against a baseline drawn from recent historical trends in economic and social conditions in the country or region. Some of the technical methods used to review and assess special economic problems of third States affected by sanctions were discussed in detail in the report of the Informal Working Group of the Security Council on General Issues of Sanctions (S/2006/997, annex), the Sanctions Assessment Handbook[7] and the Field Guidelines for Assessing the Humanitarian Implications of Sanctions[8] published by the Inter-Agency Standing Committee.

15. In the absence of Article 50 appeals conveyed to the Department of Economic and Social Affairs, little progress could be made in developing specific methodologies to make such assessments, since these can be elaborated properly only on a case-by-case basis, and assessments can be initiated only following corresponding requests by third States. The Department will, however, continue to seek opportunities for collaborative work with other relevant parts of the Secretariat and with other international organizations and academic institutions to keep abreast with similar and related methodologies in order to be responsive when appeals are made.

[7] Available from http://www.humanitarianinfo.org/iasc/downloaddoc.aspx?docID=4423&type=pdf.
[8] Available from http://www.humanitarianinfo.org/iasc/downloaddoc.aspx?docID=4424&type=pdf.